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**FISCAL IMPACT STATEMENT**

**LS 7058**

**BILL NUMBER:** SB 472

**NOTE PREPARED:** Jan 3, 2011

**BILL AMENDED:**

**SUBJECT:** Oversight of Public Money.

**FIRST AUTHOR:** Sen. Mrvan

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Indiana Gaming Commission Jurisdiction:* The bill provides that the Gaming Commission has continuing jurisdiction over riverboat economic development agreements and incentive payments, regardless of the date of the development agreement. It also establishes reporting requirements for the recipients of incentive payments under the agreements.

*Community Benefit Organizations:* The bill provides that: (1) a contributing unit shall after June 30, 2011, contractually require, as a condition of providing public money to a community benefit organization that is not required to be audited annually by the State Board of Accounts, that the community benefit organization must be audited by an independent accounting firm acceptable to the contributing unit; (2) a community benefit organization must provide the results of an independent audit to the contributing unit and, in the case of a community benefit organization that receives money under a gaming development agreement, to the gaming commission; (3) a community benefit organization shall pay the costs of an independent audit; and (4) providing an independent audit by a community benefit organization does not result in the community benefit organization being considered a public agency for purposes of the open door law or the public records law. It provides that a contributing unit shall after June 30, 2011, contractually require, as a condition of providing public money to a community benefit organization, that the members of the governing body or chief executive officer of the community benefit organization shall annually file a verified written certification with each contributing unit stating that a written statement of accounts has been prepared. It requires the fiscal body of a contributing unit to review the amount of public money attributable to: (1) the unit; (2) an agreement entered into by the unit; or (3) an enterprise zone business; that is used as compensation to or reimbursement of expenditures of a member of the governing body or chief executive officer of a community benefit organization. It specifies that these reporting and review requirements do not require the disclosure of trade secrets or certain information regarding economic development negotiations

that may be excepted from disclosure under the public records law. It provides that otherwise reportable information regarding money disbursed as an incentive for an economic development project is not subject to disclosure until after the project is completed. It also provides that the definition of "development agreement" also applies to agreements between an operating agent and a unit.

*State Board of Accounts Audit Schedule:* The bill provides that examinations of public entities by the State Board of Accounts shall be conducted on a schedule determined by the Board, except as specifically required by Indiana law. (Current law requires certain entities to be examined on an annual basis and other entities to be examined on a biennial basis.) It also specifies that examinations of certain entities must be conducted at least biennially.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** *Indiana Gaming Commission (IGC) Jurisdiction* - The bill will result in additional administrative responsibilities for the Indiana Gaming Commission (IGC). The fiscal impact that might arise from these new responsibilities is indeterminable. However, any additional expenses would be paid from Riverboat Wagering Tax revenue annually appropriated to IGC for administrative purposes. (Note: Current statute provides that sufficient funds are annually appropriated to the IGC from Riverboat Wagering Tax revenue deposited in the State Gaming Fund to administer the riverboat gambling laws.) In FY 2010, this distribution totaled about \$1.8 M. The 2009-2011 biennial budget bill appropriates \$3.5 M annually in FY 2010 and FY 2011 from the State Gaming Fund to the IGC for administrative purposes.

*Community Benefit Organizations (CBOs)* - The bill establishes financial reporting requirements for CBOs. It defines an CBO generally as local economic development organizations, certain nonprofit entities, any instrumentality of county, city, or town, excluding the state, a county, city or town, or a public foundation for a nonpublic school, state educational institution, or private postsecondary educational institution. The bill provides for the following relating to CBOs:

- (1) A CBO must hire an independent accounting firm to audit the use of public money, and must provide the results of the audit to the Indiana Gaming Commission.
- (2) An CBO must file a verified written certification with each municipality that has contributed public money to the CBO. The certification must be signed, under penalty of perjury, by the members of the governing body and the chief executive officer of the CBO. It also must contain certain items as listed in the bill, all of which relate to the CBO's use of public monies. The certification must also be available for inspection to any member of the public upon request.

*State Board of Accounts Audit (SBA) Schedule* - The bill provides that examinations of public entities by the SBA shall be conducted on a schedule determined by the SBA, except as specifically required by state law. (Current law requires certain entities to be examined on an annual basis and other entities to be examined on a biennial basis.) This provision could result in a cost savings for the SBA, but the impact will ultimately be determined by the administrative actions of the SBA in conducting audits more or less frequently than is required under current law. This bill also specifies that examinations of certain entities must be conducted at least biennially. Those entities include schools that require a federal audit; towns with a population of less than 5,000 that require a federal audit; and all other entities that require a federal audit and are not audited annually on the schedule determined by the SBA.

**Background Information - IGC Oversight of Development Agreements:** The bill specifies that the IGC has continuing jurisdiction over "development agreements" between persons or local units and riverboat casino owners or the operating agent of the French Lick casino; and "incentive payments" made by the casino owner or operating agent under the development agreements. It also authorizes the IGC to verify and ensure that development agreements, incentive payments, and disbursements of incentive payment money received by persons or local units comport with the purposes of the riverboat gambling laws and don't adversely affect the integrity of the riverboat gambling industry in Indiana. Current statute requires riverboat casino owners and the operating agent of the French Lick casino to report annually to the IGC the total dollar amounts and recipients of economic development payments made during the year by the casinos. The riverboat casinos also must report any other items related to the economic development payments that the IGC may require. Economic development payments by the riverboat casinos totaled \$122.5 M in CY 2009, with the cumulative total from CY 2003 to CY 2009 equal to \$828.3 M.

The bill requires recipients of riverboat incentive payments to annually report to the IGC an accounting of: (1) the incentive payment received by the recipient; and (2) any disbursements of incentive payment money received by the recipient. The bill also requires incentive payment recipients to furnish sufficient documentation to prove the validity of an incentive payment transaction to the IGC if the IGC requests this information. The bill requires that the report include the legal name of the incentive payment recipient and the date, amount, and purpose of each disbursement of incentive payment money. The bill does not require reporting of any trade secrets, information relating to economic development negotiations while negotiations are in progress, or money disbursed as an incentive for an economic development project until the project is completed.

The bill also requires that these reports must be made available electronically through the computer gateway administered by the state Office of Technology.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** The new reporting requirements under the bill likely will have a minimal administrative impact on local units receiving riverboat incentive payments.

**Explanation of Local Revenues:**

**State Agencies Affected:** Indiana Gaming Commission; State Board of Accounts.

**Local Agencies Affected:** All municipalities; Local units receiving riverboat incentive payments.

**Information Sources:** Indiana Gaming Commission, *Summary of Local Development Agreement Payments.*, February 18, 2009; March 9, 2010.

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